

REMARKS

No amendments have been made. Claims 1, 2, 4 – 10, and 13 – 20 are pending in this Application. Reconsideration and further examination is respectfully requested.

Claim Rejections - 35 U.S.C. §103

1. Claims 1, 6, 8, 10, & 13 were rejected under 35 USC 103(a) as being unpatentable over Sandstrom (U.S. Patent Publication # 6697373) in view of Aimoto et al. (U.S. Patent # 6,144,636). This rejection is respectfully traversed.

As explained in the Applicants' previous response, the Applicants' invention uses two metrics – one, a utilization metric representing a measure of current usage of maximum allowed bandwidth for a service; and the other, a current utilization metric representing a measure of current usage of allocated bandwidth for that service. Additional bandwidth is allocated to a service in response to the current utilization metric unless the link is at full capacity; otherwise bandwidth is balanced between the services such that the utilization metrics are made approximately equal. Note that the utilization metrics are based on maximum allowed bandwidth for a service – which is not necessarily equal for each service.

In order to establish a prima facie case of obviousness, one of the several criteria that must be met is that the prior art reference (or references when combined) must teach or suggest all the claim limitations. The Applicants respectfully assert Sandstrom and Aimoto, taken either alone or in combination, fail to teach or suggest the Applicant's claimed invention. In particular, Sandstrom and Bruckman fail to teach or suggest the Applicant's claimed utilization metric.

The Office Action admits that “Sandstrom does not disclose computing metric of a usage of maximum allowed bandwidth, and the metric of current usage of the allowed bandwidth, so that the two metrics are made approximately equal to each other.”

The Office Action then refers to Aimoto as follows:

In the same field of endeavor, Aimoto clearly shows computing for each service a utilization metric representing a measure of current usage of a maximum allowed bandwidth for that service (fig. 2b (247), col. 10, lines 3-14 (maximum rate)).

computing for each service a current utilization metric representing a measure of current usage of the allocated bandwidth by that service (fig. 2b (247), col. 10, lines 3-14 (indication of increasing or decreasing current bandwidth)); and

such that the utilization metrics of the services are made approximately equal to each other (fig. 2b (247), col. 10, lines 3-14 (indication of increasing or decreasing bandwidth current bandwidth to match the maximum rate))

The Applicants disagree with the characterization of Aimoto as set forth in the Office Action. Fig. 2b of Aimoto depicts an ATM cell definition. PT 244 indicates the cell is a bandwidth management cell. Therefore data part 242 contains congestion notification information. Congestion notification information includes binary marking mode, in which the transmission source terminal is notified of only the indication of increasing or decreasing bandwidth, and explicit marking mode, in which the transmission source terminal is notified of an allowed transmission bandwidth. One or the other of these modes is used. This is further clarified at Col. 2 lines 22 – 27 of Aimoto: “The congestion notification indication for the bandwidth management cell is divided into a binary marking mode wherein the transmission source terminal is notified of only the indication of increase or decrease in a bandwidth, and an

explicit marking mode wherein the transmission source terminal is notified of an allowed transmission bandwidth.”

It is thus not possible that the binary mode (increasing or decreasing bandwidth) of Aimoto would be used with the explicit mode (maximum rate) of Aimoto as the Office Action has suggested in order to suggest the utilization metric of the Applicants’ claimed invention. It is therefore clear that Sandstrom and Aimoto, taken together or in part, fail to teach or suggest the Applicant’s claimed invention wherein additional bandwidth is allocated to a service in response to the current utilization metric unless the link is at full capacity; otherwise bandwidth is balanced between the services such that the utilization metrics are made approximately equal. The Applicants therefore respectfully request that the rejection of Claim 1 be withdrawn. Independent Claim 10 contains limitations similar to those of Claim 1 and is believed allowable for the same reasons. The Applicants therefore respectfully assert that Claim 1, its dependent Claims 6 and 8, Claim 10, and its dependent Claim 13 are in condition for allowance.

2. Claims 16 - 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Bruckman et al. (U.S. Patent Publication # 20040179519), in view of Sandstrom and further in view of Aimoto. This rejection is respectfully traversed.

Independent Claim 16 sets forth a network having first and second network elements, “each of the first and second network elements determining for the first and second services, respectively, a utilization metric representing a measure of current usage of a maximum allowed bandwidth for that service, the first and second network elements balancing the bandwidth allocated to the services if the current utilization metric of at least one of the services exceeds a specified threshold and usage of the bandwidth of the common link is currently at full capacity, such that the utilization metrics of the services are made approximately equal to each other”.

Again, Sandstrom and Aimoto fail to teach or suggest the invention as set forth in Claim 16 for the same reasons as set forth with regard to Claim 1, and Bruckman adds nothing further to solve the deficiencies of Sandstrom and Aimoto. The Applicants therefore respectfully assert that Claims 16, and dependent Claims 17 and 18, are in condition for allowance.

3. Claims 2, 4, 5, 9, 14, and 15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sandstrom in view of Aimoto and further in view of Branstad et al. (U.S. Patent # 6498782). This rejection is respectfully traversed.

Claims 2, 4, 5, and 9 are dependent on Claim 1. Claims 14 and 15 are dependent on Claim 10. As previously set forth, Sandstrom and Aimoto fail to teach or suggest all the elements set forth in independent Claims 1 and 10. Branstad adds nothing further that would solve the deficiencies of Sandstrom and Aimoto. The Applicant therefore respectfully asserts that claims 2, 4, 5, 9, 14, and 15 are in condition for allowance.

4. Claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over Sandstrom in view of Aimoto and in view of Bruckman. This rejection is respectfully traversed.

Claim 7 is dependent on Claim 1. As previously set forth, Sandstrom and Aimoto fail to teach or suggest all the elements set forth in independent Claim 1. Bruckman adds nothing further that would solve the deficiencies of Sandstrom and Aimoto. The Applicant therefore respectfully asserts that claim 7 is in condition for allowance.

5. Claim 19 was rejected under 35 U.S.C. 103(a) as being unpatentable over Bruckman in view of Sandstrom and Aimoto and further in view of Montgomery, JR (US Pub. #2004005745). This rejection is respectfully traversed.

Claim 19 is dependent on Claim 16. As previously set forth, Bruckman and Sandstrom fail to teach or suggest all the elements set forth in independent Claim 16. Montgomery, JR adds nothing further that would solve the deficiencies of Bruckman, Sandstrom, and Aimoto. The Applicant therefore respectfully asserts that claim 19 is in condition for allowance.

6. Claim 20 was rejected under 35 U.S.C. 103(a) as being unpatentable over Bruckman in view of Sandstrom and Aimoto, and in view of Branstad. This rejection is respectfully traversed.

Claim 20 is dependent on Claim 16. As previously set forth, Branstad and Bruckman add nothing further that would solve the deficiencies of Sandstrom and Aimoto. The Applicant therefore respectfully asserts that claim 20 is in condition for allowance.

CONCLUSION

In view of the amendments and remarks made herein, Applicant(s) submit(s) that the application is in condition for allowance and request early favorable action by the Examiner.

If the Examiner believes that a telephone conversation with the Applicants' representative would expedite allowance of this application, the Examiner is cordially invited to call the undersigned at (508) 303-2003, or at the undersigned's mobile, (617) 901-6786.

The Director is hereby authorized to charge any fees which may be required to Deposit Account No. 50-2295.

Respectfully submitted,

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